REMARKS

The Examiner is thanked for the final Office Action dated October 30, 2007. The status of the application is as follows:

- Claims 1-22 are pending.
- Claims 1, 2, 4, 7, 8, 10-12, 14, 17, 18 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ukai et al. (US 7,096,486).
- Claims 3, 5, 6, 9, 13, 15, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. in view of Herz et al. (US 5,758,257).

The rejections are discussed below.

The Rejection of Claims 1, 2, 4, 7, 8, 10-12, 14, 17, 18 and 20-22 under 35 U.S.C. §102(e)

Claims 1, 2, 4, 7, 8, 10-12, 14, 17, 18 and 20-22 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ukai et al. This rejection should be withdrawn because Ukai et al. does not teach each and every aspect set forth in subject claims and, thus, does not anticipate claims 1, 2, 4, 7, 8, 10-12, 14, 17, 18 and 20-22.

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). MPEP §2131

Independent **claim 1** is directed towards a method for recommending items using a recommending device. The method includes, *inter alia*, obtaining a recommendation score for the one or more available items, calculating an adjustment to the recommendation score based on a consistency, which is a ratio of an item being selected by a user relative to the number of times the item was offered, and generating a combined

recommendation score based on the recommendation score and the adjustment. Independent **claims 8, 11, 18, 21 and 22** recite similar aspects. The Office asserts that Ukai et al. teaches such aspects in connection with Fig. 5, which is described at column 5, lines 40-55. However, the referenced section of Ukai et al. does not teach or suggest such claim aspects.

More particularly, Ukai et al. is directed towards a TV program selection support system that proposes selected programs to the viewer. FIG. 5 shows a view history table 500 showing view scores and view measures, which indicate an extent to which each program was viewed. The view history table 500 includes program name 501, view scores 502 and 503 for the serial numbers of series programs, and program view measure 504, which is the mean view score. The view scores 502 and 503 are calculated by dividing a corresponding view time period by a corresponding program time period, and the program view measure 504 is calculated by dividing the sum of view scores by the number of serials of the series programs. The program view measure 504 is calculated and updated every time the view score 502 or 503 is entered. Hence, Ukai et al. discloses a table that stores historical program viewing information, including, for each program watched, the ratio of the amount of time a program is watched to the total time length of the program, and the average of the ratios.

The Office asserts that Ukai et al. teaches obtaining a recommendation score for the one or more available items at column 5, lines 42-44. In particular, the Office asserts that the view score teaches the recommendation score since the view score represents how long a program has been viewed, and the amount of time a viewer watches a program is representative of a preference/recommendation of how much the user enjoys viewing a program. The Office is mistaken. As discussed above, the view scores for a program are simply a historical viewing record for the program; the view scores for a program indicate the number of times the program is viewed and, for each time the program is viewed, the ratio of the amount of time the program was viewed to the total time length of the program. The view score is not a recommendation score.

The Office further asserts that Ukai et al. teaches calculating an adjustment to the recommendation score based on a consistency, which is a ratio of an item being selected by a user relative to the number of times the item was offered at column 5, lines 42-47. In particular, the Office asserts that the view measure teaches the claimed adjustment. As noted above, the Office equates the view score with the recommendation store. As such, the Office is asserting that the view measure teaches an adjustment to the view score. In contrast, the view score is used to calculate the view measure, and is not used to adjust the view score. In addition, the claim requires that the consistency be a ratio of an item being selected by a user relative to the number of times the item was offered. In contrast, the view measure for a program is the average viewing length based on the total length of the program.

The Office further asserts that Ukai et al. teaches generating a combined recommendation score based on the recommendation score and the adjustment at column 5, lines 51-53. In particular, the Office asserts that this section of Ukai et al. teaches recalculating a combined score using both view scores 502 and 503, and updating the adjustment/preference view measure 504, therefore the combined score is based on both the recommendation score / view score 502 and the preference view measure 504. The Office's interpretation is non-sensical. As disclosed in Ukai et al., the view measure 504 is based on the view scores 502 and 503; the view measure 504 is the average of the view scores, and every time the view score 502 or 503 is entered the view measure 504 is recalculated. Thus, the combined score (the view measure 504) is a combination (average) only of the view scores 502 and 504.

Claims 2, 4, 7, 8, 10-12, 14, 17, 18 and 20-22 depend from independent claims 1, 8, and 18 and are allowable at least by virtue of their dependencies.

The Rejection of Claims 3, 5, 6, 9, 13, 15, 16 and 19 under 35 U.S.C. 103(a)

Claims 3, 5, 6, 9, 13, 15, 16 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. in view of Herz et al. This rejection should be withdrawn because the combination of Ukai et al. and Herz et al does not teach or suggest all the limitations of the subject claims and, therefore, fails to establish a *prima facie* case of obvious with respect to the subject claims.

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, (CCPA 1974). "MPEP §2143.03.

Claim 3, which depends from claim 1, recites that the recommendation score is provided by an explicit program recommender. **Claim 13** recites similar aspects. The Office asserts that Herz et al. teaches this at column 12, lines 11-18. However, this section of Herz et al. relates to a customer profile, which is determined from a customer questionnaire or ballot filled out by a customer. This section of Herz et al. is silent with respect to an explicit program recommender, let along an explicit program recommender that provides a recommendation score for one or more available items. Accordingly, this rejection should be withdrawn.

Claims 5, 6, 9, 15, 16 and 19 depend from independent claims 1, 8, and 18 and are allowable at least by virtue of their dependencies.

Conclusion

In view of the above, it is submitted that the subject claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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